## UNITED STATES OF AMERICA

## BEFORE THE NATIONAL LABOR RELATIONS BOARD

TALMADGE PARK

and

Case 34-CA-12209

NEW ENGLAND HEALTH CARE EMPLOYEES UNION, DISTRICT 1199, SEIU

## DECISION AND ORDER

On May 27, 2009, the two sitting members of the Board issued an unpublished Decision and Order which approved and adopted the parties' Formal Settlement Stipulation, providing for a consent order by the Board and the automatic entry of a consent judgment by any appropriate United States Court of Appeals. Thereafter, the General Counsel filed an application for enforcement in the United States Court of Appeals for the Second Circuit. On June

Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

17, 2010, the United States Supreme Court issued its decision in New Process Steel, L.P. v. NLRB, 130 S.Ct.

2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained.

Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>2</sup>

The Board has considered the parties' Formal Settlement Stipulation and has decided to approve it and to adopt the findings of fact and order set forth in the May 27, 2009 unpublished decision which is incorporated herein by reference.

Dated, Washington, D.C., August 25, 2010

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

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<sup>&</sup>lt;sup>2</sup> Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

Mark Gaston Pearce, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD